

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

JOHN MARSHALL MANTEL,
Plaintiff

V.

INTERNET ROI, INC.
Defendant

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Docket No: 19-10092

**ANSWER TO COMPLAINT
AND AFFIRMATIVE DEFENSES**

Defendant, Internet ROI, Inc., hereby answers the Plaintiff's Complaint. All allegations not specifically admitted should be deemed denied.

ANSWER

NATURE OF THE ACTION

1. Defendant admits that Plaintiff purports to assert claims under the Copyright Act and the Digital Millennium Copyright Act, but denies that Plaintiff is entitled to any such relief. Otherwise deny.

JURISDICTION AND VENUE

2. This paragraph contains a legal conclusion for which no response is required.
3. This paragraph contains a legal conclusion for which no response is required.
4. This paragraph contains a legal conclusion for which no response is required.

PARTIES

5. Defendant lacks sufficient knowledge to form a belief as to the truth of the allegation and calls upon Plaintiff to prove the same.
6. Admit.

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

7. Defendant lacks sufficient knowledge to form a belief as to the truth of the allegation and calls upon Plaintiff to prove the same.
8. Defendant lacks sufficient knowledge to form a belief as to the truth of the allegation and calls upon Plaintiff to prove the same.
9. Defendant lacks sufficient knowledge to form a belief as to the truth of the allegation and calls upon Plaintiff to prove the same.
10. Defendant lacks sufficient knowledge to form a belief as to the truth of the allegation and calls upon Plaintiff to prove the same.

B. Defendant's Infringing Activities

11. Defendant admits an article and video entitled "She Wouldn't Sign A Prenup So Her Fiancee Dumped Her, But What She Did Next..." appeared on Defendant's website. The contents of the article and video speak for themselves. Otherwise deny.
12. Defendant admits that it did not license the Photograph from Plaintiff and affirmatively alleges that no such license or permission or consent was required. Otherwise deny.

FIRST CLAIM FOR RELIEF

COPYRIGHT INFRINGEMENT AGAINST DEFENDANT

(17 U.S.C. §§ 106, 501)

13. Defendant incorporates by reference its responses to Paragraphs 1 – 12 of the Complaint.
14. Deny.
15. Deny.
16. Deny.
17. Deny.
18. Deny.

19. Deny.

SECOND CLAIM FOR RELIEF

INTEGRITY OF COPYRIGHT MANAGEMENT INFORMATION AGAINST DEFENDANT

(17 U.S.C. §1202)

20. Defendant incorporates by reference its responses to Paragraphs 1 – 19 of the Complaint.

21. Deny.

22. Deny.

23. Deny.

24. Deny.

25. Deny.

26. Deny.

27. Deny.

ANSWER TO PRAYER FOR RELIEF

Plaintiff is not entitled to any of the relief sought in Plaintiff's Prayer for Relief.

AFFIRMATIVE DEFENSES

Without altering the burden of proof, Defendant asserts the defenses set forth below. These defenses are asserted based upon Defendant's investigation of the asserted allegations, which is not yet complete and will remain so pending discovery in this matter. Defendants therefore reserve all affirmative defenses under Fed. R. Civ. P. 8(c), and any other defense at law or equity that may now exist or in the future be available based on discovery and further investigation.

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

1. Plaintiff's claim fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

(Fair Use)

2. Any use by Defendant of any copyrightable material owned by Plaintiff was a fair use of such material.

THIRD AFFIRMATIVE DEFENSE

(Standing)

3. Plaintiff does not own the material that is the subject of this action or otherwise lacks standing to bring its claim.

FOURTH AFFIRMATIVE DEFENSE

(Estoppel/Unclean Hands)

4. Plaintiff's claims are barred by the doctrine of estoppel and unclean hands.

FIFTH AFFIRMATIVE DEFENSE

(Justification)

5. Defendant's actions were justified and/or taken in good faith and were not willful, intentional or purposeful.

SIXTH AFFIRMATIVE DEFENSE

(Lack of Requisite Intent or Knowledge)

6. Defendant's actions were undertaken without the requisite intent or knowledge required under 17 U.S.C. § 1202 *et. seq.*

WHEREFORE, Defendant respectfully requests that the Court enter judgment against Plaintiff:

- A. Dismissing Plaintiff's Complaint in its entirety with prejudice;
- B. Award Defendant its reasonable costs and attorneys' fees; and
- C. Award Defendant such other and further relief as the Court deems just and proper.

Respectfully submitted,
Internet ROI, Inc.,
By its attorneys,



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